

UNITED STATES BANKRUPTCY COURT  
SOUTHERN DISTRICT OF NEW YORK

IN RE: . Case No. 09-50026-mg  
. Chapter 11  
.   
MOTORS LIQUIDATION COMPANY, . (Jointly administered)  
et al., f/k/a GENERAL .  
MOTORS CORP., et al, . One Bowling Green  
. New York, NY 10004  
Debtors. .  
. Monday, December 11, 2017  
. 9:33 a.m.  
. . . . .

TRANSCRIPT OF PRETRIAL CONFERENCE REGARDING  
PLAINTIFFS' ENFORCEMENT MOTION AND THE  
FOREBEARANCE AGREEMENT APPROVAL MOTION  
BEFORE THE HONORABLE MARTIN GLENN  
UNITED STATES BANKRUPTCY COURT JUDGE

APPEARANCES:

For General Motors LLC: King & Spalding, LLP  
By: ARTHUR J. STEINBERG, ESQ.  
SCOTT DAVIDSON, ESQ.  
1185 Avenue of the Americas  
New York, NY 10036  
(212) 556-2158

For Certain Personal  
Injury/Death Plaintiffs: Hilliard Munoz & Gonzales LLP  
By: ROBERT HILLIARD, ESQ.  
719 South Shoreline Boulevard #500  
Corpus Christi, Texas 78401  
(361) 882-1612

APPEARANCES CONTINUED.

Audio Operator: TL

Transcription Company: Access Transcripts, LLC  
10110 Youngwood Lane  
Fishers, IN 46038  
(855) 873-2223  
[www.accesstranscripts.com](http://www.accesstranscripts.com)

Proceedings recorded by electronic sound recording,  
transcript produced by transcription service.

APPEARANCES (Continued):

For the GUC Trust: Gibson, Dunn & Crutcher LLP  
By: MITCHELL A. KARLAN, ESQ.  
200 Park Avenue #47  
New York, New York 10166  
(212) 351-3827

For Interested Party,  
General Motors, LLC: Quinn Emanuel Urquhart & Sullivan, LLP  
By: JAMES C. TECCE, ESQ.  
SUSHEEL KIRPALANI, ESQ  
51 Madison Avenue, 22nd Floor  
New York, NY 10010  
(212) 849-7199

For the Ignition Switch  
plaintiffs and certain  
non-Ignition Switch  
plaintiffs: Brown Rudnick LLP  
By: EDWARD S. WEISFELNER, ESQ.  
HOWARD S. STEEL, ESQ.  
7 Times Square  
New York, New York 10036  
(212) 209-4917

For the Ignition  
Switch Plaintiffs: Hagens Berman Sobol Shapiro LLP  
By: STEVE W. BERMAN, ESQ.  
1918 8th Avenue, Suite 3300  
Seattle, Washington 98101  
(206) 623-7292

For Interested Party,  
The Participating  
Unitholders: Akin Gump Strauss Hauer & Feld  
By: DEBORAH J. NEWMAN, ESQ.  
One Bryant Park  
Bank of America Tower  
New York, NY 10036-6745  
(212) 872-7481



APPEARANCES (Continued):

For Creditor, Additional  
Ignition Switch  
Pre-Closing Accident  
Plaintiffs:

Andrew Myers, P.C.  
By: LISA M. NORMAN, ESQ.  
1885 Saint James Place, 15th Floor  
Houston, TX 77056  
(713) 850-4245

TELEPHONIC APPEARANCES:

For Certain Personal  
Injury/Death Plaintiffs: Hilliard Munoz & Gonzales LLP  
By: RUDY GONZALES, ESQ.  
719 South Shoreline Boulevard #500  
Corpus Christi, Texas 78401  
(361) 882-1612



1 (Proceedings commenced at 10:05 a.m.)

2 THE COURT: All right. Please be seated. We're her  
3 in Motors Liquidation, 09-50026, here for the final pretrial  
4 conference.

5 Let me hear from plaintiffs' counsel first. Who's  
6 going to speak?

7 MR. BERMAN: I am, Your Honor.

8 THE COURT: I have the list of appearances in front  
9 of me.

10 MR. BERMAN: Steve Berman on behalf of the  
11 plaintiffs.

12 THE COURT: Go ahead, Mr. Berman.

13 MR. HILLIARD: Your Honor, Bob Hilliard on behalf of  
14 plaintiffs.

15 THE COURT: Thank you. Yeah, I have everybody's  
16 appearance, so --

17 MR. HILLIARD: You just want to start?

18 THE COURT: -- let me -- I want to hear from  
19 plaintiffs' counsel first. Don't all get up at once.

20 Go ahead, Mr. Berman.

21 MR. BERMAN: Good morning, Your Honor. Would you  
22 like me to run down some of the issues we see?

23 THE COURT: I would. Yes, please.

24 MR. BERMAN: I think we've made a lot of progress on  
25 the objection to exhibits, and at this point in time, we're



1 down --

2 THE COURT: Which I appreciate. I saw the one  
3 revised --

4 MR. BERMAN: Yes. So we're down to --

5 THE COURT: -- exhibit today.

6 MR. BERMAN: -- to just seven objections --

7 THE COURT: Okay. That's fine.

8 MR. BERMAN: -- which we may or may not actually  
9 persist when we get to trial and see how it goes.

10 THE COURT: Okay.

11 MR. BERMAN: One issue that we did want to raise with  
12 you is we are going to object to the other side's designating  
13 the deposition testimony of their own witnesses. We believe  
14 that's improper under Rule 32(a)(3), and we'd like to submit --

15 THE COURT: You don't need to. I mean, it clearly is  
16 improper. You can't -- I should say it's improper, but I've  
17 had numerous cases where the parties just simply agree and  
18 allow it, but where I've had objections to a party designating  
19 testimony of its -- of people it controls or within the  
20 subpoena power, I sustain those objections. So if you can't  
21 work it out, I'm not going to permit it, you know, unless  
22 they're able to argue that it falls within one of the  
23 recognized exceptions to the hearsay rule, I won't permit the  
24 use of the deposition transcripts of your own witnesses. But  
25 sometimes people agree the testimony is, you know, not



1 controverted, it just speeds it up, but I'm -- so your point, I  
2 take, Mr. Berman. Okay?

3 MR. BERMAN: Okay. Thank you, Your Honor. The  
4 second issue, it's not a huge issue, but we do have some  
5 objections to the direct testimony.

6 THE COURT: Okay.

7 MR. BERMAN: And I don't know how you want to handle  
8 that.

9 THE COURT: When I -- what would be helpful to me is  
10 if you could put those objections into writing so I -- because  
11 what I will try and do -- is it -- are they extensive, the  
12 objections?

13 MR. BERMAN: No, there's a tiny amount.

14 THE COURT: Okay. So I think it would be helpful --  
15 when would you be able to file written objections to the direct  
16 -- proposed direct testimony? What I try to do is rule in  
17 advance so that everybody knows, okay, this is what's coming  
18 in, this is what's not coming in. Okay.

19 MR. BERMAN: I think we could do it by tomorrow.

20 THE COURT: Okay. And it would be helpful if the  
21 defendants' counsel would respond -- could respond. It doesn't  
22 have to be an elaborate filing, but just so I know what the  
23 arguments are, Mr. Karlan, and that way, either before the  
24 trial, if I can get it done this week, I would enter a short  
25 written order ruling on the objections, or I'll try and do it



1 at the start of the trial, but I want everybody to know what's  
2 likely to come in and what's not going to come in. Okay?

3 MR. BERMAN: I think the third issue -- I don't know  
4 if we actually submitted it to you or not -- is our time  
5 allocations.

6 THE COURT: That's -- I do want to hear today from  
7 people about the time allocation.

8 MR. BERMAN: I think we've agreed on nine hours a  
9 side.

10 THE COURT: Okay.

11 MR. BERMAN: That would be inclusive of opening and  
12 closing.

13 THE COURT: How long do you anticipate being with an  
14 opening?

15 MR. BERMAN: What is your preference? Do you have a  
16 preference?

17 THE COURT: I've read the briefs, okay, so you don't  
18 need to repeat what you've put in writing. What I do find  
19 helpful is when, typically, in an opening, people kind of try  
20 to focus me on what they really think are the core issues for  
21 the trial. I've read all the briefs already, okay. Well, I  
22 didn't read the reply briefs yet. I guess they came in, they  
23 were, what, attached to the -- one of the documents I -- I have  
24 to read those today.

25 MR. BERMAN: Okay. So I would -- haven't consulted



1 with Mr. Hilliard, but I would think less than a half an hour  
2 for our openings.

3 THE COURT: That's fine. Look, you've got the  
4 nine-hour allocation per side that's agreed. You'll use it as  
5 you wish, okay. I think I probably commented before that some  
6 of you have been in other trials before me. When I use time  
7 allocations, we have never gotten to the end of the trial with  
8 people saying, I've run out of time, I need more time.  
9 Usually, everybody finishes earlier.

10 MR. BERMAN: I think we are all anticipating we're  
11 going to finish early, by the way.

12 THE COURT: Okay. When I read -- in light of  
13 everything I've read, it seemed to me you were all going to  
14 finish early, but you got the allocation.

15 MR. BERMAN: The last question that we have on our  
16 side, because we haven't been in a trial with you, is how do  
17 you like to handle exhibits? I mean, do you want notebooks?  
18 Do you want the witness to have a notebook?

19 THE COURT: So I usually get them -- are -- well,  
20 I've got a couple questions. Are you going to project the --  
21 are you using PowerPoint or some other thing -- something else  
22 to project the exhibits?

23 MR. BERMAN: Well, we were going to ask you if you  
24 would like that.

25 THE COURT: That's fine. A couple of the questions I





1 had was about -- and the courtroom, I believe -- you know, the  
2 courtroom, they did some remodeling over the last two weeks. I  
3 started using the courtroom on Friday. What they've done  
4 doesn't look very different, but they've put the wires -- there  
5 used to be wires in the floors. They put them behind the  
6 walls. They haven't -- there are going to be cameras. They  
7 haven't put them back up because you've got to put them on  
8 brackets. There were cameras on stands before, and there were  
9 two big -- or there was one big monitor in the back. They  
10 haven't mounted them yet. I don't know whether they'll be up  
11 before the trial.

12 But you do have the ability to plug a laptop into the  
13 system. I have two monitors. You can display them on the  
14 monitors. Some of you have been in trials here before.

15 I don't -- Mr. Tecce, I don't think you were in this  
16 courtroom, though. I think -- were we in here or we -- I don't  
17 remember.

18 MR. TECCE: I thought we were, Judge, yes.

19 THE COURT: It could be. I'm losing track of time.  
20 This used to be Judge Gerber's courtroom, Judge Gonzalez before  
21 that. So whether or not you display them on the monitor, I do  
22 want paper copies. Getting them in binders, as long as they're  
23 clearly marked and tabbed and the binders are tabbed, I can  
24 flip to them. That way -- sometimes I write notes on the  
25 exhibits.



1           So, you know, if it's not inconvenient, I would  
2 suggest doing both. Project the exhibits, you know. All of  
3 you can highlight -- simply highlight, if you have them up on  
4 the screen, show me what's really important on it, what you  
5 think is important on a page, et cetera. Okay?

6           MR. BERMAN: Okay. Those are all the topics I wanted  
7 to raise.

8           THE COURT: Okay.

9           MR. HILLIARD: I have one.

10          THE COURT: Mr. Hilliard.

11          MR. HILLIARD: Good morning, Your Honor. It's my  
12 understanding we were going to have our IT fellow come in and  
13 meet with your clerk so that when we start Monday, we can be  
14 sure to --

15          THE COURT: You should.

16          MR. HILLIARD: Okay.

17          THE COURT: Yes.

18          MR. HILLIARD: I'll arrange that with your clerk.

19          THE COURT: Yes.

20          MR. HILLIARD: Okay.

21          THE COURT: And we'll get somebody from the IT  
22 department to come down in addition to my courtroom deputy and  
23 make sure that everything works --

24          MR. HILLIARD: Great.

25          THE COURT: -- the way you want it to.



1 MR. HILLIARD: Thank you. The second issue that we  
2 have with the other side is closing.

3 THE COURT: yes.

4 MR. HILLIARD: GUC and GM believe that they want to  
5 come back after the trial and do closing at a later date. We  
6 believe that there is a very clear and concise issue that  
7 probably lends itself to whenever we're done, which will  
8 probably be closer to Tuesday afternoon than Wednesday, I would  
9 guess.

10 THE COURT: Right.

11 MR. HILLIARD: We'd be ready to closing, but that's  
12 an issue that we're going to need the Court's assistance on,  
13 likely.

14 THE COURT: Sure. With a trial of this length, which  
15 I consider short, it seems to me that closings at the end of  
16 the evidence is appropriate. In longer trials where I really,  
17 you know, prefer to see the transcript, I've scheduled closings  
18 a couple of weeks later sometimes until the transcripts are  
19 done. So it does -- I'll listen to the other side before  
20 making a final say on it, but it does seem to me let's just get  
21 the evidence done and the -- evidence and argument done.

22 And I was going to ask, are you going to have -- have  
23 you agreed on having a reporter for daily transcripts or you  
24 talked about it?

25 MR. HILLIARD: We intend to, Judge, and we're happy



1 to share with the other side.

2 THE COURT: Okay.

3 MR. HILLIARD: We have talked with them about that,  
4 but as a matter of course now, we try to get that done so that  
5 we can use it in closing if necessary.

6 THE COURT: Yes. And, you know, the last few trials  
7 I've had where there's been daily, there's a -- you know, an  
8 iPad on my bench so -- with realtime transcript. I assume  
9 you'll use a reporter that has that technology. You know, the  
10 advantage to me sometimes, if I haven't followed a question and  
11 answer clearly, I might ask a followup question right then. So  
12 it helps me to be able to see the realtime transcript.

13 MR. HILLIARD: We'll have a screen for the bench, as  
14 well.

15 THE COURT: That's fine. And usually, it's just an  
16 iPad sitting up here that's wired. And we've usually had the  
17 reporter sort of by the corner by the jury box, but you can --

18 MR. HILLIARD: Okay.

19 THE COURT: I'm pretty easy about that. Okay?

20 MR. HILLIARD: Speaking of easy, another issue that  
21 probably just to make sure that we stay on the right side of  
22 how you see things going is we're going to call some of GM's --  
23 or GUC's witnesses adversely.

24 THE COURT: Yes.

25 MR. HILLIARD: And I was visiting with them this



1 morning about how they intend to do their direct or redirect,  
2 whether they want to call back after we close, and I believe  
3 that we've agreed that they'll just do it then.

4 THE COURT: It's my preference that you just do your  
5 full examination --

6 MR. HILLIARD: Yeah.

7 THE COURT: -- while the witness is there rather than  
8 recalling the witness. In a bench trial, particularly of this  
9 length, it really doesn't seem to me to be warranted to wait  
10 and have the witness recalled. I don't -- so generally, I  
11 don't sustain objections that it's beyond the scope. Everybody  
12 does their full examination. You'll get your chance to  
13 redirect and things like that. But let's just get the  
14 witnesses to tell their story in one sitting.

15 MR. HILLIARD: Agreed, and I think the other side  
16 agrees, too.

17 THE COURT: Okay.

18 MR. HILLIARD: Thank you, Judge.

19 THE COURT: Mr. Berman.

20 MR. BERMAN: I was reminded that I said we would file  
21 our objections to the direct tomorrow. We need to set a  
22 response date for the other side, as well.

23 THE COURT: One day later. I mean, I really don't --  
24 if, as you've said, it's only a limited number of objections  
25 you have -- I mean, the written direct is not very lengthy, so



1 it should not be complicated to do. Okay?

2 All right. Mr. Karlan, I want to hear --

3 MR. BERMAN: Thank you, Your Honor.

4 MR. KARLAN: I'm trying to respond to some of what's  
5 been said, Your Honor. With respect to the designations of  
6 deposition testimony, we have not designated as part of our  
7 affirmative case any portion of the transcripts of the  
8 depositions of any of our witnesses. But we have, of course,  
9 counter-designated --

10 THE COURT: Yes.

11 MR. KARLAN: -- substantial portions --

12 THE COURT: That's fair.

13 MR. KARLAN: That's all that's --

14 THE COURT: Generally, I -- you know, I rather  
15 loosely apply the rule of completeness. So frequently when one  
16 side designates, the other side thinks there's another portion  
17 of the testimony that's relevant on the same subject. I  
18 generally allow that in.

19 What has been my practice with respect to objections  
20 to designations, designations, cross-designations, et cetera,  
21 is I usually have not ruled on that until the evidence is all  
22 in. I just haven't had a chance to review -- you know, review  
23 it. I've looked at some of the deposition transcripts. When  
24 we had the telephone hearing last week, I indicated that with  
25 respect to the work product issue I had read the one deposition



1 transcript. But I haven't read the others at this stage.

2 MR. KARLAN: With respect to the objections to  
3 documents, I heard counsel say that they were down to seven. I  
4 just wanted to draw Your Honor's attention to footnote one that  
5 the plaintiffs have added to Exhibit F to the pretrial order,  
6 which as I read it is an objection to --

7 THE COURT: Tell me. I don't -- you know, I can --

8 MR. KARLAN: -- is an objection to everything. I  
9 don't know whether they're -- I don't know whether the  
10 reference to seven documents means they're not really --

11 UNIDENTIFIED: That's ours.

12 MR. KARLAN: -- pressing the footnote, or --

13 UNIDENTIFIED: That's ours.

14 MR. KARLAN: That's ours? Okay. All right. Well,  
15 we're --

16 THE COURT: Mr. Tecce objects to everything.

17 MR. KARLAN: We're not -- we're -- yeah. We're  
18 withdrawing that. All right.

19 UNIDENTIFIED: Suddenly it seems more \*\*10:19:02

20 THE COURT: I think you got to have a talk --

21 MR. KARLAN: No, no, no. No.

22 THE COURT: You better have a discussion with him.

23 MR. KARLAN: That's totally unreasonable. It's off.  
24 It's out. It's out. That --

25 THE COURT: You better have a discussion with your --



1 MR. KARLAN: That footnote should not be in there.

2 MR. KARLAN: So we are down to seven -- we're down to  
3 seven objections from --

4 (Counsel confer)

5 MR. KARLAN: So I'm not sure where the seven is  
6 coming from then, Judge.

7 THE COURT: Well --

8 MR. KARLAN: Maybe Mr. Berman can speak to that when  
9 he gets up.

10 THE COURT: Hopefully you'll work this out. Okay?

11 MR. KARLAN: Okay.

12 THE COURT: And you'll let me know if you can get it  
13 worked out.

14 MR. KARLAN: On the nine hours a side, I don't recall  
15 agreeing to that, but it's perfectly fine. And I'll be shocked  
16 if this case takes 18 --

17 THE COURT: They were engaging in mind reading and  
18 they knew you would agree.

19 MR. KARLAN: That's fine. I'll be shocked if this  
20 case goes 18 hours, Judge.

21 THE COURT: I would be surprised.

22 MR. KARLAN: Closings at the end of the evidence,  
23 that's fine, Judge. Is Your Honor going to either permit or  
24 require or refuse to permit post-trial briefs?

25 THE COURT: I won't decide that until I've heard the





1 evidence. Okay?

2 MR. KARLAN: All right.

3 THE COURT: And it will depend on whether there's  
4 some questions that I haven't thought about so far and I listen  
5 to the evidence and I think it's not clear. I may ask for  
6 post-trial briefs.

7 MR. KARLAN: Okay.

8 THE COURT: Given when the trial is and the holidays,  
9 if I ask for post-trial briefs, it'll probably be for a  
10 mid-January date --

11 MR. KARLAN: Okay.

12 THE COURT: -- so your associates are not having to  
13 work over the holidays.

14 MR. KARLAN: Judge, I have been known to lift a pen.

15 THE COURT: Mr. Kirpalani is smiling because he's  
16 heard that same little talk before. You know, I'm concerned  
17 about the associates. The partners, not so much.

18 MR. KARLAN: And then, Judge, I think the last thing  
19 I've got is with respect to the calling of our witnesses  
20 adverse. Here's what I understand is going to happen. Please  
21 tell me if I've got it wrong.

22 THE COURT: Okay.

23 MR. KARLAN: Your Honor has required that to the  
24 extent anybody wants to put in direct testimony, it had to be  
25 in sometime ago. So in terms of telling the story, the story



1 has either been told or it ain't going to get told. The  
2 plaintiffs apparently want to do their cross-examination of  
3 Mr. Williams and Ms. Andrews as part of their case in chief.  
4 And they will do so and any further examination by me will be  
5 limited to redirect.

6 THE COURT: The one caveat I put to that is, you  
7 know, you've -- I have the written direct from both sides. And  
8 so if you have the direct testimony of a witness and it hasn't  
9 addressed issues that the other side's witnesses have put in --

10 MR. KARLAN: Fair enough.

11 THE COURT: -- yes, I'm going to permit that.

12 MR. KARLAN: Fair enough. And then to turn the coin  
13 over, when the rest of the plaintiffs' case comes in, they will  
14 call -- the -- I guess it's all gentlemen, it's not ladies and  
15 gentlemen -- from whom they've put in direct testimony and  
16 there will be no more direct testimony from those witnesses. I  
17 will either cross them or not. And the trial might be over  
18 really fast.

19 THE COURT: Might be.

20 MR. KARLAN: Okay. Thank you, Judge. Unless you  
21 have questions for me --

22 THE COURT: So I have a couple of questions --

23 MR. KARLAN: Yeah. Sure.

24 THE COURT: -- for both of -- well, go ahead, Mr. --

25 MR. HILLIARD: Okay. As to that issue, Judge --



1 THE COURT: Yes.

2 MR. HILLIARD: -- just for clarification to be sure,  
3 because I understood differently. So we call Mr. Weinstein and  
4 I put in his direct. We pass the witness. They do a  
5 cross-examination. It was my belief that depending on the  
6 cross-examination, the Court would allow some oral redirect.

7 THE COURT: Absolutely.

8 MR. HILLIARD: Yeah.

9 THE COURT: Absolutely.

10 MR. KARLAN: I didn't mean to --

11 MR. HILLIARD: Yeah.

12 THE COURT: I don't think it was -- I don't think --

13 MR. KARLAN: Yeah. Absolutely.

14 THE COURT: -- Mr. Karlan was saying anything  
15 inconsistent with that. That's typically -- so typically you  
16 call the witness. You offer the direct written testimony. If  
17 there are objections, I'll rule on it or will have ruled on it  
18 before. You tender the witness to the other side. They  
19 cross-examine. Then you do a redirect.

20 MR. HILLIARD: Right.

21 THE COURT: Okay?

22 MR. HILLIARD: Thank you.

23 THE COURT: That's generally how I have proceeded.

24 MR. KARLAN: And that was my understanding.

25 THE COURT: Okay. That's fair enough. Okay. So,



1 you know, I have a lot more work to do before the trial. But a  
2 couple of questions that I had that I would like to be sure  
3 that there's evidence and argument addressing is did -- one,  
4 did the unsigned agreement permit any party to withdraw from  
5 the agreement if the Court requires the plaintiffs to seek  
6 Rule 23 certification of one or more economic loss classes?

7           When I read the agreement, it seemed to me that  
8 parties had a right to withdraw from the agreement if I didn't  
9 approve the notice program. But it just seemed to me that I  
10 could approve the notice program, but nevertheless still  
11 decide -- which I haven't -- I've not -- I don't expect to  
12 decide now -- but could still decide that, no, Rule 23  
13 certification is going to be required. Okay? But if that were  
14 the decision of the Court, could a party withdraw?

15           And then another question, too, is did the unsigned  
16 agreement permit any party to withdraw from the agreement if  
17 the Court estimated the claim is at less than \$10 billion? My  
18 reading of the agreement so far is, no, it didn't. It required  
19 the GUC Trust to support a motion to estimate the claims of  
20 \$10 billion, but it didn't seek to constrain the Court in what  
21 it might conclude.

22           Mr. Karlan, I'll tell you why I'm asking these  
23 questions. And when I read your brief, it emphasized that the  
24 GUC Trust hadn't made a decision to go ahead with the agreement  
25 because it wanted to sort of run this trial balloon by the



1 Court before it decided that. And I was puzzled because if the  
2 agreement didn't allow somebody to withdraw, if I decided that  
3 Rule 23 certification had to occur or that parties could  
4 withdraw if I somehow estimated claims of other than  
5 \$10 billion, that's what puzzled me. And it -- anyway.

6 So I didn't see that specifically addressed in the  
7 briefs and I wanted to make sure that I raised that issue  
8 today. If before the start of the trial there are other issues  
9 I want to be sure that you address, I'll raise them at the  
10 start of the trial to give you a chance to -- you know, and if  
11 it's not in the specific testimony, I'll let, you know, each  
12 side put in additional evidence on it. Okay?

13 Anything else anybody wants to raise at this point?

14 Mr. Karlan?

15 MR. KARLAN: Judge, we've -- we're going to be, of  
16 course, having Mr. Williams, Ms. Andrews, and Mr. Martorana in  
17 court when they're needed.

18 THE COURT: Yes.

19 MR. KARLAN: And if I could just ask for a courtesy,  
20 are they needed on the first day?

21 MR. HILLIARD: That depends on the speed. I can give  
22 you the list and the order if --

23 MR. KARLAN: Okay. Sure.

24 THE COURT: Yeah. So --

25 MR. HILLIARD: -- if that would help.



1 THE COURT: And I didn't -- I don't think I raised  
2 this with you all. This is a -- going to be a short trial.  
3 There are not that many witnesses. I generally require that  
4 each side disclose the order of witnesses so if you have  
5 different lawyers who are going to do cross-examination, they  
6 know when they have to be here. And I've never had a problem  
7 with lawyers doing that. I haven't -- I've never -- I have --  
8 I don't enter written orders. Counsel usually agree that, yes,  
9 they'll do that. Not that many witnesses, not that many days  
10 of trial, so it isn't that big a deal.

11 MR. HILLIARD: Yeah. And we've had that cooperation  
12 so far, Judge. But for the Court's edification, we're going to  
13 call Mr. -- in this order, Mr. Weisfelner, Mr. Steel,  
14 Mr. Weintraub, Mr. Golden, Ms. Andrews, Mr. Williams, and  
15 Mr. Martorana.

16 THE COURT: Okay.

17 MR. HILLIARD: That would be it.

18 THE COURT: Thank you.

19 MR. HILLIARD: And I will give you the list. You  
20 don't have to scribble fast.

21 THE COURT: All right. Anything else anybody else  
22 wants --

23 Mr. Karlan?

24 MR. KARLAN: Sure. I've been told that we may  
25 have -- may have one or two very small objections to the direct



1 testimony. May we be on the same schedule for --

2 THE COURT: Yes.

3 MR. KARLAN: Thank you.

4 THE COURT: Please.

5 Mr. Berman?

6 MR. BERMAN: The last issue -- I think we have an  
7 agreement, and if we don't, we -- I want to raise anyway -- is  
8 the exchange of demonstratives. Twenty-four hours before --

9 MR. TECCE: I think we said 3 p.m. Sunday we would  
10 exchange a slide presentation of any opening --

11 THE COURT: Thanks, Mr. Tecce.

12 No one has raised this issue, so I will raise it now.  
13 Since no one has raised it, I'm assuming that neither side is  
14 insisting that witnesses be excluded from the courtroom before  
15 they testify. Am I correct in that assumption?

16 Mr. Karlan?

17 MR. KARLAN: We are not, Judge.

18 MR. HILLIARD: Nor are we, Judge.

19 THE COURT: Okay. Thank you.

20 All right. Any other housekeeping details you think  
21 that I've left out?

22 Mr. Tecce?

23 MR. TECCE: Yeah. Just in terms of the closing, if  
24 Wednesday afternoon was an option, that's something that we  
25 would ask. Even if we conclude on Tuesday --



1 THE COURT: Sure.

2 Mr. TECCE: -- to give time -- the parties time --

3 THE COURT: Yeah.

4 MR. TECCE: -- on the morning on Wednesday to  
5 prepare.

6 THE COURT: That's fine. I've scheduled nothing  
7 else. You know, the three days are blocked out, so I have no  
8 problem about doing the -- you know, assuming we finish the  
9 evidence on Tuesday, doing the closings on Wednesday is fine  
10 with me. You know, give everybody a chance to sort of reflect  
11 what they want to say.

12 MR. HILLIARD: If we do finish Tuesday, Judge, I  
13 would just ask that we perhaps revisit doing it Wednesday  
14 morning as --

15 THE COURT: Okay.

16 MR. HILLIARD: -- Texas is calling and --

17 THE COURT: Yes. I --

18 MR. HILLIARD: -- it's the holidays.

19 THE COURT: It is the holidays, Mr. Tecce, so --

20 MR. TECCE: I understand, Your Honor. But --

21 THE COURT: We'll revisit --

22 MR. TECCE: -- one of our team has a conflict --

23 THE COURT: I'm sorry?

24 MR. KARLAN: All of our team has a -- Bob and I  
25 already agreed we're not going to go for Wednesday morning.





1 We -- you and I spoke --

2 THE COURT: You'll work it out. Okay?

3 MR. KARLAN: Okay.

4 THE COURT: Let's try and show --

5 MR. KARLAN: Okay.

6 THE COURT: -- some professional courtesies and the  
7 fact that counsel want to return home for the holidays. Okay?  
8 All right.

9 All right. I will -- I'm going to enter an order  
10 approving the joint pretrial order. I recognize that there may  
11 be some further tinkering with the objections. Hopefully  
12 you'll be able to do that. I'm glad you've been able to  
13 resolve most of the objections at this point. Okay? Look  
14 forward to seeing you next week.

15 MR. KARLAN: Thank you, Judge.

16 MR. TECCE: Thank you, Your Honor.

17 THE COURT: Okay.

18 UNIDENTIFIED: Thank you, Your Honor.

19 THE COURT: You know we start at 9:00 each day?  
20 Okay. Thanks very much. All right. We're adjourned.

21 (Proceedings concluded at 10:29 a.m.)

22 \* \* \* \* \*

23

24

25



C E R T I F I C A T I O N

I, Alicia Jarrett, court-approved transcriber, hereby  
certify that the foregoing is a correct transcript from the  
official electronic sound recording of the proceedings in the  
above-entitled matter.

Alicia J. Jarrett

ALICIA JARRETT, AAERT NO. 428

DATE: December 11, 2017

ACCESS TRANSCRIPTS, LLC

C E R T I F I C A T I O N

I, Liesl Springer, court-approved transcriber, hereby  
certify that the foregoing is a correct transcript from the  
official electronic sound recording of the proceedings in the  
above-entitled matter, and to the best of my ability.

Liesl Springer

LIESL SPRINGER, AAERT NO. 685

DATE: December 11, 2017

ACCESS TRANSCRIPTS, LLC

